

Adopted	Rejected
---------	----------

## COMMITTEE REPORT

YES:	10
NO:	3

### MR. SPEAKER:

*Your Committee on Environmental Affairs, to which was referred Senate Bill 440, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 natural resources and environmental law.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 13-11-2-66.3 IS ADDED TO THE INDIANA
- 7 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 8 [EFFECTIVE JANUARY 1, 2003 (RETROACTIVE)]: **Sec. 66.3.**
- 9 **"Emission data", for purposes of environmental management laws,**
- 10 **means:**
- 11 **(1) the identity, amount, frequency, concentration, or other**
- 12 **characteristics of a contaminant that:**
- 13 **(A) has been emitted from an emission unit;**
- 14 **(B) results from an emission by the emission unit;**
- 15 **(C) the emission unit was authorized to emit under an**
- 16 **applicable standard or limitation; or**

- 1           **(D) is a combination of any of the items described in**  
 2           **clauses (A) through (C);**  
 3       **(2) the:**  
 4           **(A) name, address, or other description of the location of;**  
 5           **and**  
 6           **(B) the nature of;**  
 7       **the emission unit necessary to identify the emission unit,**  
 8       **including a description of the device, equipment, or operation**  
 9       **that constitutes the emission unit; or**  
 10       **(3) information that is necessary to determine or calculate**  
 11       **emission data described in subdivision (1), including:**  
 12           **(A) rate of operation;**  
 13           **(B) rate of production;**  
 14           **(C) rate of raw material usage; or**  
 15           **(D) material balance;**  
 16       **if the information is contained in a permit to ensure that the**  
 17       **permit is enforceable under state or federal law.**

18       SECTION 2. IC 13-11-2-130.5 IS ADDED TO THE INDIANA  
 19       CODE AS A NEW SECTION TO READ AS FOLLOWS  
 20       [EFFECTIVE JULY 1, 2003]: **Sec. 130.5. "Periodic vehicle**  
 21       **inspection program", for purposes of IC 13-17-5, means a program**  
 22       **requiring a motor vehicle registered in a county to undergo a**  
 23       **periodic test of emission characteristics and be repaired and**  
 24       **retested if the motor vehicle fails the emissions test. The term**  
 25       **includes entering into and managing contracts for inspection**  
 26       **stations.**

27       SECTION 3. IC 13-17-5-6.6 IS ADDED TO THE INDIANA CODE  
 28       AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 29       1, 2003]: **Sec. 6.6. (a) The board may not adopt a rule that**  
 30       **establishes fees to be paid by persons having their motor vehicles**  
 31       **tested under this chapter.**

32       **(b) This section expires January 1, 2007.**

33       SECTION 4. IC 13-17-5-9 IS ADDED TO THE INDIANA CODE  
 34       AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 35       1, 2003]: **Sec. 9. (a) After December 31, 2006, the board may not**  
 36       **adopt a rule under air pollution control laws that requires motor**  
 37       **vehicles to undergo a periodic test of emission characteristics in the**  
 38       **following counties:**

1           **(1) A county having a population of more than seventy**  
 2           **thousand (70,000) but less than seventy-one thousand**  
 3           **(71,000).**

4           **(2) A county having a population of more than ninety**  
 5           **thousand (90,000) but less than one hundred thousand**  
 6           **(100,000).**

7           **(b) After December 31, 2006, 326 IAC 13-1.1 is void to the**  
 8           **extent it applies to a county referred to in subsection (a).**

9           **(c) Unless the budget agency approves a periodic vehicle**  
 10          **inspection program for a county referred to in subsection (a), the**  
 11          **board shall amend 326 IAC 13-1.1 so that it does not apply after**  
 12          **December 31, 2006, to a county referred to in subsection (a).**

13          **(d) The budget agency, after review by the budget committee,**  
 14          **may approve in writing the implementation of a periodic vehicle**  
 15          **inspection program for one (1) or more counties described in**  
 16          **subsection (a) only if the budget agency determines that the**  
 17          **implementation of a periodic vehicle inspection program in the**  
 18          **designated counties is necessary to avoid a loss of federal highway**  
 19          **funding for the state or a political subdivision. The approval must**  
 20          **specify the counties to which the periodic vehicle inspection**  
 21          **program applies and the time during which the periodic vehicle**  
 22          **inspection program must be conducted in each designated county.**  
 23          **The budget agency, after review by the budget committee, shall**  
 24          **withdraw an approval given under this subsection for a periodic**  
 25          **vehicle inspection program in a county if the budget agency**  
 26          **determines that the suspension of the periodic vehicle inspection**  
 27          **program will not adversely affect federal highway funding for the**  
 28          **state or a political subdivision.**

29          **SECTION 5. IC 14-28-1-26.5 IS AMENDED TO READ AS**  
 30          **FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 26.5. (a) This section**  
 31          **applies to the following activities:**

32               **(1) The placement or replacement of a mobile home within a**  
 33               **boundary river floodway.**

34               **(2) The repair of a residence that:**

35                   **(A) is located in a boundary river floodway; and**

36                   **(B) has been damaged by floodwaters or another means;**

37               **except for the reconstruction of a residence to which section 25 of**  
 38               **this chapter applies.**

(3) The construction of an:

(A) addition to; or

(B) improvement of;

a residential structure within a boundary river floodway.

**(4) The construction of a new residence within a boundary river floodway.**

(b) The federal regulations that:

(1) were adopted by the director of the Federal Emergency Management Agency to implement the National Flood Insurance Act (42 U.S.C. 4001 et seq.);

(2) are published in 44 CFR Parts 59 through 60; and

(3) are in effect on January 1, 1997;

are adopted as the criteria for determining whether an activity referred to in subsection (a) is allowed in Indiana. **However, the lowest floor of a new residence constructed within a boundary river floodway referred to in subsection (a)(4) must be at least two (2) feet above the one hundred (100) year frequency flood elevation.**

(c) A person who wishes to perform an activity referred to in subsection (a) is authorized to perform the activity if:

(1) the federal regulations described in subsection (b) as the governing criteria allow the activity; and

(2) the person obtains a permit for the activity under this section.

(d) To obtain a permit for an activity referred to in subsection (a), a person must:

(1) file with the director a verified written application for a permit on a form provided by the department; and

(2) pay to the department a nonrefundable fee of ten dollars (\$10).

(e) An application filed under this section must:

(1) set forth the material facts concerning the proposed activity; and

(2) in the case of an activity described in subsection (a)(1), ~~or~~ (a)(3), **or (a)(4)**, include plans and specifications for the construction, reconstruction, or repair.

(f) If an application submitted under this section meets the requirements set forth in subsections (d) and (e), the director may not reject the application unless the regulations adopted as the governing criteria under subsection (b) do not allow the activity.

(g) If the federal regulations adopted as the governing criteria under

subsection (b) authorize a type of activity only when certain conditions are met, a permit that the director issues for that type of activity may require the applicant, in carrying out the activity, to meet the same conditions.

(h) If:

(1) there is a dispute under this section about the elevation of a site; and

(2) the elevation of the site has been determined by a registered land surveyor;

the elevation determined by the registered land surveyor must be used as the accepted elevation."

Page 1, line 3, delete "March" and insert "**November**".

Page 1, line 11, delete "ten-thousandths (0.0007)" and insert "**thousandths (0.007)**".

Page 2, between lines 19 and 20, begin a new paragraph and insert:  
 "SECTION 7. [EFFECTIVE DECEMBER 31, 2000 (RETROACTIVE)] (a) **As used in this SECTION, "board" refers to the water pollution control board established by IC 13-18-1.**

(b) **All waters designated under 327 IAC 2-1.5-19(b) as outstanding state resource waters shall be maintained and protected in their present quality in accordance with the antidegradation implementation procedures for the outstanding state resource waters established by the board for waters in the Great Lakes system. This SECTION does not affect the authority of the board to amend 327 IAC 5-2-11.7. Any rule adopted by the board contrary to this standard is void.**

(c) **All waters designated as outstanding state resource waters under 327 IAC 2-1-2(3) and waters designated as exceptional use waters under 327 IAC 2-1-6(i) shall be maintained and protected in accordance with 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2). If a permittee seeks a new or increased discharge for which a new or increased permit limit is required and that amounts to a significant lowering of water quality, the permittee shall demonstrate an overall improvement in water quality in the outstanding state resource water or exceptional use water, subject to:**

(1) **the approval of the department of environmental management; and**

(2) **IC 13-18-3-2(m)(2)(A) and IC 13-18-3-2(m)(2)(B).**

1       (d) Any rule adopted by the board before the effective date of  
2 this SECTION is void to the extent that it:

3           (1) is inconsistent with this SECTION; or

4           (2) requires protection of waters beyond the protection  
5 required by 327 IAC 2-1-2(1) and 327 IAC 2-1-2(2).

6       (e) Before July 1, 2004, the board shall amend 327 IAC 2-1-2,  
7 327 IAC 2-1-6, and 327 IAC 2-1.5-4 to reflect this SECTION.

8       (f) This SECTION expires on the earlier of:

9           (1) the effective date of the rule amendments adopted by the  
10 board under subsection (e); or

11          (2) July 1, 2006.

12       SECTION 8. [EFFECTIVE DECEMBER 31, 2002  
13 (RETROACTIVE)] (a) Until July 1, 2004, the following apply to a  
14 water body designated before October 1, 2002, as an exceptional  
15 use water:

16           (1) The water body is subject to the overall water quality  
17 improvement provisions of IC 13-18-3-2(l).

18           (2) The water body is not subject to a standard of having its  
19 water quality maintained and protected without degradation  
20 consistent with the provisions of P.L.140-2000.

21       (b) Before July 1, 2004, the water pollution control board  
22 established under IC 13-18-1 shall:

23           (1) determine whether, effective July 1, 2004, to designate as  
24 an outstanding state water each water designated before  
25 October 1, 2002, as an exceptional use water under 327 IAC  
26 2-1-11; and

27           (2) complete rulemaking to make any designation determined

- 1        **under subdivision (1).**
- 2        **(c) This SECTION expires July 1, 2006."**
- 3        Renumber all SECTIONS consecutively.  
          (Reference is to SB 440 as reprinted March 4, 2003.)

**and when so amended that said bill do pass.**

---

Representative Bottorff